

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES SCOTT ROWTON, SR.,

Defendant and Appellant.

C087004

(Super. Ct. No. 14F3301)

Appointed counsel for defendant James Scott Rowton, Sr., has filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) After reviewing the entire record, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In 2014, defendant was convicted of 8 sexual offenses against his daughter (including 2 counts of forcible rape, 2 counts of forcible lewd acts upon a child, 2 counts

of lewd acts upon a child, and 2 counts of forcible oral copulation upon a child less than 18 years old), and the trial court found he had five prior convictions that were charged under both the habitual sexual offender law (Pen. Code, § 667.71)¹ and the one strike law (§ 667.61). He was sentenced to serve an aggregate term of 350 years to life in state prison, consisting of 4 consecutive indeterminate terms of 25 years to life, tripled to 75 years to life under the three strikes law (§ 1170.12, subd. (c)(2)), plus 2 consecutive terms of 25 years to life under the three strikes law as to 2 counts, with 2 additional 25 years to life terms imposed as to 2 other counts but stayed under section 654. (*People v. Rowton* (Sept. 11, 2017, C078750) [nonpub. opn.]))

The evidence found true by the jury showed defendant committed the acts described in the information over a period of years beginning when the victim was 10 years old and continuing until she was 19.

On appeal, this court affirmed defendant's convictions on counts 1 through 4 and 3 of the true findings as to his prior convictions, but we found the evidence insufficient to support his convictions on counts 5 through 8 and determined 2 of the prior convictions (for oral copulation) did not qualify defendant for alternative sentencing under sections 667.61 and 667.71. We remanded the matter for resentencing.

On resentencing, the trial court imposed consecutive terms of 25 years to life under section 667.71 as to counts 1 and 2 and tripled those terms to 75 years to life under the three strikes law, yielding an aggregate state prison term of 150 years to life. The court imposed but stayed the same sentences on counts 3 and 4 under section 654. The court awarded 320 days of presentence custody credit (279 actual days and 41 conduct days). The court imposed a \$10,000 restitution fine (§ 1202.4, subd. (b)), a matching suspended parole revocation restitution fine (§ 1202.45), a

¹ Undesignated statutory references are to the Penal Code.

\$160 court operations fee (§ 1465.8), and a \$120 criminal conviction assessment (Gov. Code, § 70373).

Appointed counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____/s/
HOCH, J.

We concur:

_____/s/
RAYE, P. J.

_____/s/
RENNER, J.